

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TERRELL BRYAN EDWARDS, <i>Pro Se</i> ,)	Case No.: 3:11 CV 785
)	
Petitioner)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
KEITH SMITH, WARDEN,)	
)	
Respondent)	<u>ORDER</u>

On April 21, 2011, Petitioner Terrell Bryan Edwards, *pro se* (“Edwards” or “Petitioner”), filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his felony convictions for one count of aggravated burglary with a gun specification, one count of aggravated robbery, and two counts of kidnapping. (ECF No. 1.) Petitioner raised two grounds for relief in his Petition: (1) “The Lucas County Common Pleas Court Failed to Merge Aggravated Robbery and Kidnapping Together;” and (2) “Ineffective Assistance of [Trial] Counsel in Violation of Rights.” (*Id.* at 6-7.)

This case was referred to Magistrate Judge George J. Limbert (“Judge Limbert”) for the preparation of a report and recommendation (“R&R”). The Respondent filed his Return of Writ on August 19, 2011. (ECF No. 7.) Edwards did not file a Traverse. Judge Limbert issued his R&R on February 23, 2012, recommending that the Petition be denied. (ECF No. 17.) Specifically, Judge Limbert concluded that both grounds should be denied because they were procedurally defaulted,

and Edwards failed to show cause and prejudice or other extraordinary circumstances to excuse the procedural default. (R&R at 11–13.) While Edwards presented his two grounds for relief to the Ohio Court of Appeals—which rejected both assignments of error—he failed to timely appeal to the Ohio Supreme Court, and the Court denied Petitioner’s motion for a delayed appeal. (*Id.* at 11 (applying *Maupin v. Smith*, 785 F.2d 135 (6th Cir. 1986).)

As of the date of this Order, Petitioner has not filed any objections to the Report and Recommendation within the prescribed period. By failing to do so, he has waived the right to appeal the Magistrate Judge’s recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

The court finds that, after *de novo* review of the R&R and all other relevant documents, the Magistrate Judge’s conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge’s Report and Recommendation. (ECF No. 8.) Consequently, Edwards’s Petition is hereby denied and final judgment is entered in favor of Respondent. The court further certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
CHIEF JUDGE
UNITED STATES DISTRICT COURT

April 30, 2012